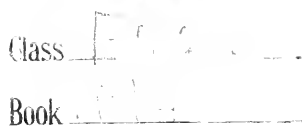


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INDEPENDENCE OF THE PEOPLE OF CUBA.

SPEECH

OF

HON. WILLIAM E. MASON,
OF ILLINOIS,

IN THE

SENATE OF THE UNITED STATES,

TUESDAY, APRIL 12, 1898.

WASHINGTON.
1898.

Speech

OF

HON. WILLIAM E. MASON.

The Senate having under consideration the joint resolution (S. R. 149) for the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the Island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect, reported by Mr. DAVIS, from the Committee on Foreign Relations—

Mr. MASON said:

Mr. PRESIDENT: I should not take any time in the discussion or make any remarks upon the message of the President which was received yesterday if the Committee on Foreign Relations were ready to report. I believe the country is anxious that we should act promptly. I shall not take one moment of time that seems to me ought to be consumed in voting upon the pending question, nor shall I take the time away from any other Senator who desires to speak upon that subject, for I have already expressed myself except upon the questions of law and precedent as they were recited yesterday in the President's message.

Mr. President, the great hindrance to civilization has been the disposition of humanity to fail to take advantage of the experience of others. In this great crisis it would seem the part of wisdom for one inexperienced in the art of statecraft to see what some of the men of our own country have suggested and stood for under similar circumstances. With this thought in view, then, of learning from unselfish men who are recorded in the annals of our nation as great and good men, inspired with the love of liberty, I am sure, Mr. President, I may be forgiven if I appeal to the records and to the very words of Henry Clay, and to the records and conduct of the Congress of the United States.

As before announced to you in language which could not be misunderstood, I am for war, and have been since the hour our flag was lowered in Havana Harbor and the lives of our citizens taken by the Government of Spain. But I am and have been for this declaration of war only as a means of securing an honorable peace.

I have no desire to destroy the Spanish nation, but her flag must be dishonored by surrendering her sovereignty over Cuban territory as an atonement for lowering our flag, sinking our ship, and murdering our men. While I am for war, I realize that I have but one poor vote in the war-making power of this Government, and I stand ready in this hour to uphold the hands of the Executive and take the best I can get. I have been indulging in a hope that seemed almost a certainty—that the Executive would recommend intervention and independence to the Cuban Republic.

Intervention by force of arms, as recommended by the President, is war. To declare for intervention without declaring directly, openly, for war seems to lack frankness and savors too much of Spanish diplomacy.

If we can have armed intervention without recognizing the independence of Cuba and can have nothing else, I must accept the will of the majority, reserving to myself the right to respectfully protest and also reserving the right to fight for independence for the brave men, women, and children in the Island of Cuba.

That on this line I am following the way blazed by that great statesman, Henry Clay, in 1818, and followed by the Congress of the United States, will at least excuse me from the charge of self-assertion, even if I fail to enlist my colleagues in this cause.

Mr. Clay's speech was delivered March 24, 1818, the House being in the Committee of the Whole and having under consideration an appropriation bill providing for the support of the Government for 1819, Mr. Clay being anxious that our Government should recognize the independence of Buenos Ayres and plead for the emancipation of South America from the Spanish yoke. Believing that to send a minister to Buenos Ayres was the best way at that time to acknowledge the independence of Buenos Ayres, he offered an amendment which provided for our sending a minister to that country. His speech that day deals with the propriety of acknowledging the independence of another state: whether it should be done in that way and whether it was a usurpation of executive function for the legislative branch to speak first. I shall quote fully on each branch, and I am content to follow him. First, as to our duty in acknowledging independence. Then, as now, we were troubled by the cruelties, the barbarities, and atrocities of Spain. Then, as now, Spain sought to subjugate and rob.

Mr. Clay insisted that if there was an established government in Spanish America we were in honor bound to acknowledge it, unless we renounced all the principles that had hitherto guided our councils. He clearly demonstrated that the United Provinces of the Rio de la Plata possessed such a government. He described its boundaries and its people as you would to-day describe the Island of Cuba and the brave people who have fought for its independence. The United Provinces had then, as Cuba has now, a lawmaking power: they had, as Cuba has, the power to levy and collect taxes. Mr. Clay, in this great speech, read the message of the supreme director, delivered to the congress of the United Provinces, which I ask the privilege to insert as an appendix to my remarks. After showing no more soundly organized government than is shown to-day in the Republic of Cuba, he said:

Are we not bound, then, upon our own principles, to acknowledge this new republic? If we do not, who will? Are we to expect that kings will set us the example of acknowledging the only republic on earth except our own?

But the question is raised that for Congress to vote for the independence of Cuba is an invasion of executive right and prerogative with which the legislative branch has nothing to do. Again I beg the privilege of quoting at length from Mr. Clay, and to state that I follow in the path laid out by him, and without any trespassing upon Executive functions, and I will show that the Congress of the United States in 1836 did the very thing I now favor.

Mr. President, I shall not take much of the time of the Senate this morning, as I am informed that other Senators will speak, in

reading the arguments made by Mr. Clay in favor of action by the legislative branch even before action by the executive branch. Although gentlemen may say that the policy and plan suggested by Mr. Clay was not followed by the Executive or by the Government, yet I purpose to show before I take my seat that the Congress of the United States in the very case cited by the Executive yesterday did follow the suggestion, and after General Jackson, the President of the United States, had stated the impossibility of acknowledging the independence of Texas, the Senate of the United States did it, and so did the House of Representatives, and Jackson followed in less than six weeks by the appointment of representatives from this country to the Republic of Texas. But now I am dealing with the argument and not the result.

Mr. Clay said it remained for him to defend the proposition which he meant to submit from an objection, which he had heard intimated, that it interfered with the duties assigned to the executive branch. On this subject he felt the greatest solicitation; for no man more than himself respected the preservation of the independence of the several departments of Government in the constitutional orbits which were prescribed to them. It was his favorite maxim that each, acting within its proper sphere, should move with its constitutional independence and under its constitutional responsibility, without influence from any other. He was perfectly aware that the Constitution of the United States, and he admitted the proposition in its broadest sense, confided to the Executive the reception and the deputation of ministers, but in relation to the latter operation Congress had concurrent will in the power of providing for the payment of their salaries.

I should say to Senators that it is somewhat surprising that he did not in this argument call attention to the fact that the Senate has to advise in the matter of the confirmation of ministers appointed by the Executive.

The instrument nowhere said or implied that the Executive act of sending a minister to a foreign country should precede the legislative act which shall provide for the payment of his salary. And, in point of fact, our statutory code was full of examples of legislative action prior to Executive action, both in relation to the deputation of agents abroad and to the subject-matter of treaties.

Perhaps the act of sending a minister abroad and the act providing for the allowance of his salary ought to be simultaneous, but if in the order of precedence there were more reason on the one side than on the other, he thought it was in favor of the priority of the legislative act as the safer depository of power. When a minister is sent abroad, although the legislature may be disposed to think his mission useless, although, if previously consulted, they would have said they would not consent to pay such a minister, the duty is delicate and painful to refuse to pay the salary promised to him whom the Executive has even unnecessarily sent abroad.

Mr. C. illustrated his ideas by the existing missions to Sweden and to the Netherlands. He had no hesitation in saying that if we had not ministers of the first grade there, and if the Legislature were asked prior to sending them whether it would consent to pay ministers of that grade, that he would not and he believed Congress would not consent to pay them.

If it be urged that by avowing our willingness in a legislative act to pay a minister not yet sent, and whom the President may think it improper to send abroad, we operate upon the President by all the force of our opinion—

I perhaps ought to have stated, before reading this part of the statement of Mr. Clay, that Mr. Clay believed the best way to recognize the independence of the new Spanish-American States was to add a provision to the bill then pending providing for the payment of the salaries of ministers to those countries, and he explained why he took that more direct and practical manner of legislation instead of offering, as will be offered here or reported from our committee, a direct resolution to that effect—

It may be retorted that when we are called upon to pay any minister sent under similar circumstances, we are operated upon by all the force of the President's opinion. The true theory of our Government at least supposes

that each of the two departments, acting on its proper constitutional responsibility, will decide according to its best judgment under all the circumstances of the case. If we make the previous appropriation, we act upon our constitutional responsibility, and the President afterwards will proceed upon his. And so if he make the previous appointment. We have a right, after a minister is sent abroad and we are called upon to pay him, and we ought to deliberate upon the propriety of his mission—we may and ought to grant or withhold his salary. If this power of deliberation is conceded subsequent to the deputation of the minister, it must exist prior to that deputation.

Which is simply to say, in other words, that if the power of the legislative branch exists subsequent it must exist prior to the acknowledgment of the independence of another State.

Whenever we deliberate, we deliberate under our constitutional responsibility. Pass the amendment he proposed, and it would be passed under that responsibility. Then the President, when he deliberated on the propriety of the mission, would act under his constitutional responsibility. Each branch of Government, moving in its proper sphere, would act with as much freedom from the influence of the other as was practically attainable.

There was great reason, Mr. Clay contended, from the peculiar character of the American Government, in there being a perfect understanding between the legislative and executive branches in relation to the acknowledgment of a new power. Everywhere else the power of declaring war resided with the Executive. Here it was deposited with the legislature. If, contrary to his opinion, there were even a risk that the acknowledgment of a new state might lead to war, it was advisable that the step should not be taken without a previous knowledge of the will of the war-making branch. He was disposed to give to the President all the confidence which he must derive from the unequivocal expression of our will.

This expression, he knew, might be given in the form of an abstract resolution declaratory of that will, but he preferred at this time proposing an act of practical legislation. And if he had been so fortunate as to communicate to the committee in anything like that degree of strength in which he entertained them, the convictions that the cause of the patriots was just; that the character of the war as waged by Spain should induce us to wish them success; that we had a great interest in that success; that this interest as well as our neutral attitude required us to acknowledge any established government in Spanish America; that the united provinces of the River Platte was such a government; that we might safely acknowledge its independence.

I reserve the right, in order to shorten the remarks which I wish to make this morning, to quote further and to select where it seems to be best the arguments of the great American citizen upon the suggestions and propositions which I may make in my argument.

Mr. President, I now call attention to the action taken by Congress in 1836, which shows the action of the Congress of the United States, notwithstanding the action of President Jackson quoted in the message. I quote now from the President's message of yesterday, in relation to the position taken by President Jackson in his message to Congress December 21, 1836:

Thereupon Andrew Jackson proceeded to consider the risk that there might be imputed to the United States motives of selfish interest in view of the former claim on our part to the territory of Texas, and of the avowed purpose of the Texans in seeking recognition of independence as an incident to the incorporation of Texas in the Union, concluding thus:

"Prudence, therefore, seems to dictate that we should still stand aloof and maintain our present attitude, if not until Mexico itself, or one of the great foreign powers, shall recognize the independence of the new Government, at least until the lapse of time or the course of events shall have proved beyond cavil or dispute the ability of the people of that country to maintain their separate sovereignty and to uphold the government constituted by them."

I purpose now to show, since the Executive has informed us what the executive branch of the Government thought at that time, what the legislative branch thought and did on the same question. If the Executive feels bound by Executive precedent, I must be permitted to feel bound by legislative precedent.

President Jackson did issue the message spoken of—and I call particular attention to dates—on the 21st day of December, 1836; yet immediately thereafter a resolution was introduced into the Senate of the United States recognizing Texan independence, by Robert J. Walker, a United States Senator from Mississippi.

On the 1st of March, before President Jackson's time had expired, that resolution was debated and passed by the Senate of the United States, by a vote of 23 to 22, and a motion to reconsider on the following day was lost by a tie vote of 24 to 24.

The House of Representatives immediately made an appropriation for a diplomatic agent from the United States to the Government of Texas, thereby pursuing the very course suggested by Henry Clay in his attempt to recognize in Congress the independence of Spanish-American States.

The last official act of President Jackson, previous to his retirement from the executive chair, was the nomination of Alcée Lablanche as chargé d'affaires to the new Republic of Texas. It is a historical fact that within a few days thereafter the newly accredited ministers from the Republic of Texas were given an official audience at the White House, and they were duly recognized as such ministers by the Republic of the United States.

I would not wish to suggest that the learned lawyer who furnished the authorities for this branch of the President's message was in the least disingenuous, but it is exceedingly unfortunate that the mere opinion of the Executive should be cited as a precedent when as a matter of fact the Government of the United States, composed of the executive and legislative branches, did set a precedent in absolute conflict with the opinion of President Jackson cited in the message yesterday.

In other words, the message cited yesterday by the present Executive from President Jackson was delivered on the 21st of December, 1836, and in less than ten weeks after sending his opinion to Congress he recognized the independence of the Republic of Texas by accrediting ministers to and receiving ministers from that Republic.

Mr. HAWLEY. Will the Senator from Illinois permit me to ask him a question?

Mr. MASON. Certainly.

Mr. HAWLEY. I do not remember the date of President Jackson's message: was it the 1st of December?

Mr. MASON. The 21st day of December, 1836.

Mr. HAWLEY. When did the House pass its vote?

Mr. MASON. On the 1st of March following, about eight or ten weeks thereafter.

Mr. HAWLEY. About eight or ten weeks thereafter. So there was abundant time then for the situation so to change as to justify that action.

Mr. MASON. The time has more than passed—

Mr. HAWLEY. There was abundant time for General Jackson to feel justified, even under his own previous argument, that it could be done eight weeks later. He may have been unwilling to do in December what he was glad to do in March.

Mr. MASON. Since the Senator insists upon injecting that suggestion here, did it occur to him, before he asked the question, that the present Executive has considered these questions and sent in a message denying belligerent rights and refusing to acknowledge independence more than eight weeks ago, and after he knew

the Senate and House had by large majorities passed a vote in favor of the acknowledgment of both independence and belligerency? If eight weeks passed for Jackson, eight months have passed for the present Executive; and if there is any comfort to the Senator in that situation, he is welcome to it.

Mr. President, if those who oppose granting independence to Cuba are to be governed by precedent, they are welcome to all the comfort they can get when considering the conduct of the United States toward the Republic of Texas, not based upon the opinion of the President, which he afterwards reversed in carrying out the will of the legislative branch of the Government.

Mr. President, it may be well in passing to consider the situation of the Republic of Texas when this Government acknowledged her independence. In the first place, there were but 30,000 Anglo-Americans, counting men, women, and children, and a mixed lot of Mexicans, Indians, and negroes. There are more men under arms to-day in the insurgent army in Cuba than there were men, women, and children in Texas when we acknowledged her independence.

The total army of the Texas Republic when we handed her the jewel crown of independence consisted of less than 800 men, 700 who had enlisted for the period of the war and 80 who had six months to serve at the close of 1836. True, she had some alleged war ships, but they were lying idle for want of funds. Her troops had neither flour nor bread. They had ammunition, but were without flints.

Are we to be governed by precedent, Mr. President? Here is the struggling Island of Cuba, and it does not seem possible that anyone now, after the testimony of our colleague the Senator from Vermont as to the high character of the native Cubans in revolt against Spain, can doubt the existence of a civil government and the ability of the people there to manage that government.

Is it possible that after the evidence has been before us in public documents for more than a year, we have to go through the horrible struggle of proving to some of the gentlemen the truth of the existence of that government as we did in proving to you the horrible situation of the reconcentrados?

Is the doubting Thomas still among us, and will he insist for further proof as to the genuine civil government in Cuba? Will he on such pretense make demands and cause delay until the rest shall have been starved? If so, I beg him to take Document No. 19, of the Fifty-fifth Congress, printed more than a year ago, in this Senate, containing 44 printed pages, showing the constitution and laws of that republic. It shows that the president and all of the other officers of the government were elected under the constitution and were duly installed; the taking of the census and the blanks printed for the same in the government printing office; the establishment of public schools and the printing of a spelling and reading book, the first book published by the government; the appointment of public-school teachers; the instructions for the carrying of the mail; the laws for civil marriages, for the levying and collecting of taxes, etc.

Mr. President, it seems almost like insulting the intelligence of my colleagues to call attention to that civil government, when it is known that through that government they have collected hundreds of thousands of dollars and maintained a standing army

that has kept at bay nearly 200,000 armed and equipped Spanish soldiers and has given evidence of as great bravery and endurance as any army in all the recorded past.

I beg the privilege of inserting here, as a part of my remarks, in order to save the time of the Senate, what I did intend to call the attention of the Senate to, the documents, some of them showing the existence of the civil government during all these years that it has been claimed by them to have a civil government.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Without objection, the papers will be printed in the RECORD.

The papers referred to are as follows:

Mr. DAVIS presented the following papers, accompanying the report submitted by Hon. J. D. Cameron, of Pennsylvania, from the Committee on Foreign Relations, United States Senate, December 21, 1895, on the joint resolution (S. R. 163) acknowledging the independence of Cuba.

CIVIL GOVERNMENT OF THE REPUBLIC OF CUBA.

From the very inception of the revolution the Cubans provided for a civil power. The Cuban revolutionary party, which prepared and directed the movement, was a civil organization headed by Jose Marti, most zealous in establishing the paramount influence of the law over the sword.

General Gomez then and throughout all the revolution has shown himself desirous that the civil authorities should have the supreme power. When he and Marti landed, their first aim was to constitute a provisional government. Gomez, as well as all the other military leaders, recognized Marti as the civil head. After the meeting of Gomez, Maceo, and Marti at Mejorana, on May 4, 1895, a call for the selection of representatives of the Cuban people to form a civil government was made, and Marti and Gomez marched to the central provinces to arrange for this important event. The decrees of that time are always signed by both Gomez and Marti.

The death of Marti postponed for a time the selection of the representatives, but in the beginning of September, 1895, the call previously issued was complied with.

Representatives from each of the provinces of Santiago, Puerto Principe, Santa Clara, and the western part of the island, comprising the provinces of Matanzas and Havana, making twenty in all, were elected to the constituent assembly, which was to establish a civil government, republican in form.

A complete list of the members of the constituent assembly which met at Jimaguayu, in the Province of Puerto Principe, on the 13th of September, 1895, together with an account of its organization and subsequent action, will be found in Exhibit I, printed in the Cuban government printing office, a translation of which appears in Senate document, marked B.

A constitution of the Republic of Cuba was adopted on the 16th of September, a copy of which will be found in said document, marked B.

On the 18th of September the following officers of the government were elected by the constituent assembly in accordance with the terms of the constitution:

President, Salvador Cisneros Betancourt, of Puerto Principe; vice-president, Bartolome Maso, of Manzanillo; secretary of war, Carlos Roloff, of Santa Clara; secretary of the treasury, Severo Pina, of Sancti Spiritus; secretary of the interior, Santiago Garcia Canizares, of Remedios; secretary of foreign relations, Rafael M. Portuondo, of Santiago de Cuba; subsecretary of war, Mario Menocal, of Matanzas; subsecretary of the treasury, Joaquin Castillo, of Santiago de Cuba; subsecretary of the interior, Carlos Dubois, of Baracoa; subsecretary of foreign relations, Fernin Valdez Dominguez, of Havana.

The installation of these officers duly followed. The election of the general in chief and the second in command, who is to bear the title of lieutenant-general, was then had, and resulted in the unanimous election of Maximo Gomez and Antonio Maceo, respectively.

On the same day the constituent assembly elected by acclamation, as delegate plenipotentiary and general agent abroad of the Cuban Republic, Tomas Estrada Palma. The credentials issued to him appear in said Senate document, marked C.

Exhibit Ia is a copy of *El Cubano Libre*, dated May 10, 1896, and contains the names of the principal civil authorities of the republic at that date.

Besides the constitution, Exhibit I shows the divisions of the provinces into prefectures, under the supervision of the secretary of the interior, and the duties which devolve in this department are fully set forth in Exhibit B. That these prefectures are found throughout the republic can be seen from the Spanish official dispatches, which sometimes report their capture. In the

Spanish newspaper *El Imparcial*, published at Madrid, dated November 20, 1896, an official telegram from General Ahumada of November 22, 1896, says: "In operations in Villas (Santa Clara) prefecture destroyed."

Exhibit No. 2. Innumerable instances of the existence of such prefectures throughout Cuba can be presented from official dispatches of the Spanish press. The civil governors discharge their duties in their respective districts and have their subordinates and employees.

Exhibit 2a is a circular of Carlos Manuel de Cespedes, governor of Oriente, as to commerce.

Exhibit 3 is an extract from *La Republica Cubana* of December 3, which publishes an official list of the officers of the civil government of the State of Oriente, the same as the Province of Santiago de Cuba, on November 1, 1896, and Exhibit 3a is a circular of the civil governor of the State of Camaguey, which is the same as the Province of Puerto Principe. In the *Boletin de la Guerra*, official paper of the republic, published in Puerto Principe, of the 10th of September, 1896, Exhibit 4, under the heading "Civil governor," an account is given of the resignation of the governor.

In Exhibit No. 1 can also be found the other matters pertaining to the secretary of the interior, such as workshops, manufactories, coast inspectors, and post-office, and regulations for the said State manufactories can be seen in Exhibit No. 5, dated July 18, 1896.

An envelope marked Exhibit No. 6, addressed to the civil governor of the State of Oriente, Carlos Manuel de Cespedes, shows the seals of the post-offices and the perfect system of posts. It also has an extract of the regulations of the 8th of March, 1896, as to the mail. A translation accompanies said exhibit. A set of stamps has been issued by the republic.

As to advertisement of dead-letter office, Exhibit 5 has a decree of September 2, 1896, of the civil government of the east. A translation is accompanied, marked Exhibit 6a.

The census is being taken in the different States; a blank for the same, printed in the government printing office, shows part of the work in the sub-prefecture of Cayo Rey, prefecture of La Sierra, district of Mayari, State of Oriente, Exhibit No. 7.

Exhibit No. 8 shows that Ernesto Fontes Sterling was appointed on the 7th of July, 1896, by the government council, subsecretary of the interior, owing to the absence of Dr. Joaquin Castillo.

Public schools have been established; a primer for spelling and reading is the first book published by the government. Exhibit No. 9 is the appointment of a public school-teacher on May 30, 1896. Exhibit No. 10 is also of the interior department, and contains the instructions to the prefects and rules of the mails.

The laws providing for civil marriage are in Exhibit No. 1.

In this same exhibit the laws for the organization of the public treasury are found, as well as instructions to the officers of that department. A blank used in the reports of the subdelegates of the treasury department is shown in Exhibit No. 11. A circular dated May 9, 1896, given by the secretary, Severo Pina, as to the withdrawal of cattle from the republic, is published in *La Republica*, of Santa Clara, issue of the 1st of July, makes Exhibit No. 12. Other circulars of the treasury department can be seen under Exhibits Nos. 12a and 12b.

Taxes are collected, not only in Cuba, but by orders of the secretary of the treasury. Payments are made to Benjamin J. Guerra, the treasurer of Cuba, in New York; his books can be seen, as well as the confidential orders of the department. *El Imparcial*, of Madrid, Spain, of the 25th of November, 1896, publishes a letter of the 10th of September, 1896, to the secretary of the treasury, giving an account of the sums paid to the Republic of Cuba by sugar planters through well-known bankers in New York, as well as other items amounting to hundreds of thousands of dollars. The mere perusal of this letter shows how the property owners recognize the Cuban Republic.

A translation accompanies Exhibit No. 13. In this exhibit there is also the salaries paid the army fixed by the government council.

Exhibit No. 13a. It is a well-known fact that General Weyler has not allowed any grinding of sugar this year, because he claimed that the Cubans were paid by the planters. Exhibit 13b refers to this matter and regulates it. Exhibit No. 13c is the resolution of the government imposing exportation tax on lumber.

The nature of the communications of the Cuban state department does not allow the use of its documents, but it can be affirmed that the secretary of state is in constant communication with the agent of the republic abroad and its minister plenipotentiary, Tomas Estrada Palma. During a leave of absence the secretary, Rafael M. Portuondo, was in this country and was met by many officials, Senators, and Representatives.

Exhibit No. 14, dated June 29, 1896, shows how Dr. Eusebio Hernandez temporarily substituted him. A few months ago the secretary of foreign relations, together with the President, sent a public appeal to the republics of

Spanish America in which they clearly and eloquently laid before the world the rights of Cuba.

The war department has efficiently operated during the year. In the files of the *Cubano Libre* the military regulations have been published. Exhibit No. 15 shows the appointment of Rafael Manduley on the 21st of May, 1896, in place of Mario Menocal, as subsecretary.

The civil government has been in actual operation since its election. Exhibit No. 1 shows an extract of the sessions of the government council up to October 25, 1895. Exhibit 15a is an extract of the sessions of November and contains the power given to Tomas Estrada Palma as delegate of the republic. It would be a task indeed to print all the resolutions and decrees it has passed as to the different branches of the government and general affairs. Exhibit No. 16 shows the laws for the sanitary corps of the Cuban army, drawn by Dr. Sanchez Agramonte, head of the department, and approved by the government council, under date of March 31, 1896. Exhibit No. 17 is a decree as to military rank passed by the government council on the 30th of May, 1896. Exhibit No. 18 in Exhibit No. 4 contains several resolutions passed on the 13th of July, 1896, as to freedom of speech, proposed laws for the judiciary, and the one prohibiting the sugar crop for 1896-97. A translation of the latter accompanies the exhibit. It is to be noted in this last one that it is to be communicated to the general in chief, being a war measure, for its fulfillment. The mere reading of this document proves the subserviency of the military to the civil power of the republic.

Exhibit No. 22 proves that the civil government was in the exercise of all its functions when the Cuban army captured the important town of Guaimaro. It is a vote of thanks given to Gen. Calixto Garcia by the government council.

The last document is dated the 21st day of November, 1896, and is a copy of a military order of Maj. Gen. Francisco Carrillo, commanding the Province of Santa Clara. From it it can be seen that he recognizes a supreme authority—the government council of the republic. It is Exhibit No. 23. The originals of all these exhibits, in Spanish, are on file in the Committee on Foreign Relations of the Senate.

Mr. MASON. Mr. President, but upon the question of precedent I do not stop here. I have one which I must cite which will stir the patriotism of every American who reads it. In the dark days of our Republic we had but one hope, and that was from France. We were without money and almost without friends. In France the question was discussed whether to recognize our independence or not.

In 1777 Benjamin Franklin was informed (I quote from Bancroft's History of the United States, page 245, volume 5) "that the King in council had determined not only to acknowledge the United States, but to support their cause, and that in case England should declare war against France on account of this recognition (which they afterwards did), he would not insist that the Americans should not make a separate peace, but only that they should maintain their independence."

General Washington wrote to Benjamin Franklin (I quote from the Life of Benjamin Franklin, by Parton, volume 2, page 390):

We must have one of two things—peace or money from France.

There we were, proposing by act of Congress to pay our debts—40 Continental dollars for \$1 of debts; the Continental Congress, the Continental army, and Washington himself discredited; surrounded by aliens and enemies in the field, and even worse enemies—the Tories and peace-at-any-price men—in the colonies.

But France said: "I will not simply intervene and send my troops and ships to help you, but I will do more. I will acknowledge you before the world as a free and independent sovereignty." In that hour of our extremity when we asked for recognition of our independence, France not only loaned us money every year, but gave it as a free and generous present to assist us in our struggle.

But gentlemen will say that the recognition of our independence by France was in violation of the cruel and musty rules of international law: that it was an exception to the established rule.

It may have been, for I have announced it as one of the fixed facts that no strong nation ever robbed a weak nation that did not find a precedent in international law. It may be that when France acknowledged our independence, when our credit was gone, when we were surrounded by enemies at home and abroad, it broke a precedent: but if so, 10,000,000 people ought to get down on their knees and thank God for the exception and for the breaking of the precedent. Whenever we have followed that precedent, as we did in the case of Texas, we have done wisely and well, and whenever we have failed to follow that precedent which was plead for by Henry Clay in 1818, we have been mistaken in our judgment.

But gentlemen may say, and truly, perhaps, that France hated England and loved us enough to take the chances of war in that declaration. I answer that the people of the United States, in my humble opinion, since the murders in Cuba of the reconcentrados and the murder in Havana harbor of American citizens, hate Spain and love Cuba enough to take our chance.

Mr. President, all powers in the Executive the exercise of which may lead to war are most carefully exercised by the executive branch unless the will of the war-making power is known to the Executive. It then clearly follows that it is the duty of the legislative branch of Government to inform the President as to its wishes upon all questions the decision of which may lead to war. To illustrate: This branch of Congress declared two years ago in favor of acknowledging the belligerent rights of the Cuban insurgents or the Cuban Republic. There are times when the acknowledgment of belligerent rights may be held to be a cause for war, although the general rule is that the acknowledgment of belligerency is not *casus belli*.

During the past year the President has considered the question of acknowledging the belligerent rights of the Cubans. Was it not well that in the hour of consideration he knew what this branch of the Government thought of this question? The acknowledgment of the independence of one State by another is under some circumstances made a cause for war. If the Executive hesitates to take that step at present, will he not be pleased, in consideration of the step, to be informed in respectful language of the wish of this branch of the Government? My contention, as a lawyer, is that the power to declare war having been fixed in Congress, it necessarily gives Congress the power to do and perform any act which under the law of nations may lead to war. This does not in any way limit or abridge the executive power to do some things independently of the legislative power which under the law of nations may be held to be a cause for war.

But, Mr. President, why talk of Presidential functions or legislative functions? We are to-day one people, one country, and one flag. I have no disposition to trespass either here or elsewhere upon the Executive prerogative. I have made this argument simply to show that I believe the honor of our country and the absolute independence of the present republic in Cuba are linked together forever and for all time, and my suggestion upon that point is this: What is our principal cause of complaint? The sinking of the ship *Maine*? Why was she sunk? No one who

has read the evidence, unless he is seeking for some excuse, it seems to me, but admits it was a Spanish explosion that sank our ship.

Why did Spain sink our ship by the explosion of her mine? Because the American heart went out to the struggling people of Cuba and we expressed ourselves in the pulpit and in the press and in the Senate and in the House in favor of independence of that young republic, and it was revenge against the American people, and by that act of war and that act of vengeance they have coupled the independence of Cuba forever with the honor of this country.

But it is claimed—and this seems to be a conclusive argument with some of the distinguished gentlemen with whom I have talked—within the tenor of the message and by those who support the withholding the declaration of independence for Cuba that this acknowledgment is a most solemn thing, and a step when once taken can not be retracted, and that the deed once done can never be undone by the Government of the United States, and that it might build up a weak and imperfect government in Cuba. That that proposition is untenable, unsound, and unworthy of discussion is proven by a mere recitation of the present situation—the proposition being that it would not do to establish an independent government in Cuba now until we are better advised, because it is such a solemn declaration that we would be forever estopped from questioning the sovereignty it creates.

I say it answers itself by a recitation of the present situation. For a hundred years we have stood for the sovereignty of Spain in Cuba. Our Presidents and Secretaries of State have gone so far as to cover the sovereignty of Spain in Cuba by the protecting wing of the Monroe doctrine, and it has been the announced principle of our Presidents and Secretaries of State for a century that no one should trespass upon Cuba; that we would sustain the sovereignty of Spain in Cuba by force of arms, and that Spain should never part with her sovereignty except she parted with it on account of the insurgents conquering their own independence or unless she sold the island to us.

But to-day, with a hundred years of acknowledgment of sovereignty of Spain in Cuba, the President of the United States, and very properly—and I honor him for it—says to the world, “Your sovereignty in Cuba is at an end;” and yet those who withhold the jeweled crown of independence from Cuba tell us that we may dishonor and tear down the sovereignty of Spain, which we have admitted for a hundred years, but if once there is established a republic in Cuba by our consent we will be forever estopped if they make a failure of government or establish a government of cruelty and crime, a government that does not make for civilization.

It will not do to tell 70,000,000 intelligent people that you can question the sovereignty of Spain when you have admitted it for a hundred years, but that if you establish a republic in Cuba your hands are forever tied, and that if the Island of Cuba, managed by a republic, is as guilty of the crimes and the horrors which have been carried on by the Spanish Government, we have not the same right under the divine thought of intervening for the sake of humanity to intervene against a republic that we have to-day to intervene against the established sovereignty of Spain in that island.

We may deceive ourselves, but the people understand something about these questions, and it will be difficult to get them to

think or believe that after we have acknowledged the sovereignty of Spain for a hundred years and to-day refuse it, if to-morrow the independency of Cuba was to carry on a government by force, by fraud, by crime, by murder upon little children, we would not have the same right to intervene along the lines of humanity against a republic as we now intervene against a monarchy.

Mr. President, I am for the acknowledgment of the independence of Cuba now—not mañana, not to-morrow, not next week, but as soon as we can have a chance to vote, and I shall briefly state my reasons.

I fully agree with the statement in the message of the President that independence must come to the island, but my difference with the doctrine as presented is merely one as to the question of time.

I do not see how we can be honest and frank with ourselves, how we can be consistent with other nations of the world, unless the first step is to acknowledge the independence of the established government in Cuba, a government which has sustained itself for three years against the assaults of nearly 200,000 Spanish soldiers, a government that has levied and collected its taxes, supported its schools, arms, equips, and maintains a standing army, and, better and above it all, have imitated our fathers in declaring for independence or death. Our honor and Cuban independence are linked together forever.

Suppose France had started out to help us without acknowledging our independence. With what suspicion would we have regarded her conduct? France had agreed to enter into a treaty with us by which she not only recognized our independence but guaranteed our independence before England declared war upon us. Suppose Lafayette when he came to our rescue had served notice upon us that later on the French people would decide whether they would recognize the Continental Congress and the Continental Army or whether they would recognize the Tories and the peace-at-any-price men to remodel the Government. Would not the patriots have looked upon them with suspicious eye? And would they not have had good grounds to suspect that our success meant simply a change of masters?

It was the Continental Congress, George Washington, and the Continental Army that conquered the independence of the United States of America, and it is the army of Gomez and the Republic of Cuba that will conquer her own independence on that unhappy island. In the dark hour of our distress, thank God, no nation intervened to punish England, or to measure our territory for their use or select some plan for us under the domination of a French rule and under some scheme whereby the investors of France might not lose money unwisely invested but punished us by withholding from us the crown of independence. Lafayette came with his men and ship, but sought no titled deeds to our land for the majesty of France. Are we to march on to Cuba with our glorious colors proclaiming to the world that we intervene in the interest of humanity, and carry behind our wagon trains a corps of civil engineers to survey her lands for our profit? Are we, at the close of the nineteenth century, with a million church spires pointing to the sky, dedicated to the Nazarene, to send our troops to play the part of the Good Samaritan before all the nations of the world, carrying a bag under our coat wherein to deposit the profits of the trade?

The brilliant orator from Iowa said the other day in the House that—

Hovering above the dark waters of that mysterious harbor of Havana, the black-winged vulture watches for the belated dead, while over it and over all there is the eagle's piercing eye sternly watching for the truth.

Mr. President, is it to continue to be an eagle, or is the avarice and greed of the nation to cause it to descend and partake of the vulture's food?

Do you remember Perez, the military prostitute sent by the distinguished and mild-mannered Blanco to seduce Aranguren with money to sell his men? Do you remember what he wrote to Aranguren? He said, in substance, "Aranguren, you may just as well sell out now, because the Yankees are hogs, and after you have conquered Spain you must reconquer your independence against 70,000,000 hogs." Was he right?

Mr. President, are we going down on the white-winged errand of mercy concealing, under one wing a daybook and a journal and under the other unsigned bonds? Are we to forget our citizens who went down in the harbor of Havana in our greed for gold and territory? Are we to leave the door open to compel additional terms from the insurgents who sacrificed their wives, their children, and their homes? Do we wish special treaties of commerce and leave the door open for that? Do we wish to relieve some American investors who have bought Spanish bonds and who wish to trade them for the bonds of the republic? Do we, worse still, wish to leave the door open to compel those brave men and women to accept some terms of autonomy or to pay blood money to the Spaniard or the shylocks of our own land?

You say no. Then I say close the door. It can be done by the acknowledgment of the independence of Cuba to-day. We do not guarantee independence. We do not guarantee the success of the reign of the republic.

We do not assume or become morally responsible for her conduct among the nations of the world. But by intervention you do. Intervention without the acknowledgment of independence will not do. You assert yourself as dictator of the island, and you put your open Treasury in the broad sunlight to respond to the demands, financial, moral, physical, and in every other way, for the conduct of that island when we intervene by force and take possession against all comers.

I for one am not ready to do that unless compelled by circumstances which I can not control. I hope and pray you may vote for independence for Cuba now; and by that acknowledgment we say to her, "We hold you responsible for the conduct of the island. If you give no better government to the people than that given by Spain, the right to intervene still exists in the United States of America; but if you, who amidst the carnage of war and death have achieved your own independence, are true to the declarations of your constitution, the overshadowing wing of the Monroe doctrine shall shield you and the United States of America will protect you forever."

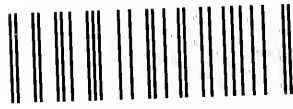
Mr. President, I have been told and led to believe that, as a rule, at the close of life and the approach of that change which we call death, when nature ceases to struggle against nature and there is no more pain, there is given to each parting soul a moment that is absolutely serene. According to the statement of our own

colleagues and well-informed physicians, nearly twenty-five out of every hundred of the reconcentrados are marked for death. I appeal for them to the Executive, and to the legislative branch of Government as well. Driven and scourged and starved like dogs, they all have hope still for their day of emancipation.

May I be forgiven if I express the hope that the heart of the Executive may be touched in their behalf? May we not hope that their last, lingering look of life be not with suspicion and hatred upon your flag and mine; that it may not rest upon the hated color of the yellow flag of Spain, but that in their rapt and parting moments they may be soothed and sustained by the sight of their own flag—the flag with a single star—the flag of the Republic of Cuba?



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